UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/27
4 August 1998

Original: ENGLISH AND FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Agenda item 4

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 July 1998]

GE.98-13511 (E)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. The International Federation of Human Rights (FIDH) and the Vietnam Committee on Human Rights are concerned that sustainable development and democracy are jeopardized in many regions of the world by the non-compliance of certain States in the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Indeed, States parties to the ICESCR not only have a responsibility to respect basic economic rights, but also to protect them by guaranteeing the free exercise of civil and political rights: "the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights" (ICESCR, Preamble).

2. In the Socialist Republic of Viet Nam, which acceded to the ICESCR and the International Covenant on Civil and Political Rights (ICCPR) in 1982, basic economic rights are guaranteed by the 1992 Constitution. However, recent explosions of social unrest, particularly in the rural areas, indicate that serious violations of economic and social rights, exacerbated by the absence of domestic legal safeguards and the suppression of political rights, continue on a wide scale.

3. In Thai Binh (north) and Dong Nai (south) provinces, tens of thousands of peasants demonstrated throughout 1997 against State abuse of land-use rights, official corruption, unfair taxation and compulsory labour contributions. Although the authorities recognized the peasants' legitimate grievances and promised to take remedial measures, hundreds of peasants, including women and children, were reportedly arrested in Dong Nai, and Security Police crushed the protests in Thai Binh with electric truncheons, tear-gas grenades and water cannons, arresting over 100 people. From 2-7 July 1998, Thai Binh Provincial People's Court sentenced 40 people to harsh prison terms of up to 11½ years in prison on charges of "taking advantage of the anti-corruption struggle and abusing democratic rights to incite public disorder".

4. These sentences are not only excessively heavy for public disorder offences, but they are totally arbitrary, pronounced in disregard of the findings of a top-level inquiry mission commissioned by the Prime Minister's special "Research Commission on Renovation" and led by the Director of the Hanoi Institute of Social Sciences, Mr. Tuong Lai. The confidential inquiry report, entitled "Sociological Investigation of the Events in Thai Binh from late June to early July 1997" (8 August 1997), a copy of which was obtained by the Vietnam Committee on Human Rights, describes extensive violations of economic and political rights in Thai Binh Province, and strongly blames discriminatory government policies and local Party officials for this eruption of social unrest.

5. The two principal grievances identified in the report are the prohibitive taxes imposed on peasants to finance overambitious government infrastructure projects, and the misappropriation of public funds for the personal enrichment of Party officials and their families. Under Viet Nam's highly [illegible] political system, all development projects are decided by central Government, but the brunt of financing must be provided by local

authorities, whose revenues "are almost entirely raised by contributions from peasants and the collectivity". In Thai Binh, the Government's drive to develop "Electricity - Roads - Schools - Health Centres" "was pushed through far too quickly over the past five years. As a result, local taxation has rocketed at an unprecedented rate. (...) We should reconsider whether these social development projects are really bringing new impetus to the rural areas of Thai Binh, or are they an excessively heavy burden for the peasants, who earn barely 1 million dongs (approximately US$ 76) per year".

6. The Government-ordered building of schools and health centres was boosted all over the province, even though many villages had no money to pay teachers or hire medical personnel. The report states that in order to pay for these projects, "almost all the communes in Thai Binh had to borrow money from the banks", thus increasing the overall debt by an estimated 40 per cent. "The crushing burden of debt repayment falls entirely on the peasants".

7. Punitive taxation is depriving peasants of their basic living standards and forcing them into increased poverty. The inquiry report estimates that a typical peasant family in Thai Binh has an annual per capita revenue of only US$ 62.50. Out of this sum, peasants must pay numerous locally-imposed "contributions", either in money or in kind. In Tay Phuong village, Tien Hai district, "every harvest, farmers owning buffaloes must pay a 'road tax' of 40 kilos of rice per buffalo. (...) a 'grass-replacement tax' is levied on flocks of more than 30 ducks etc. ...". Communist Party organ Nhan Dan reported on 8 September 1997 that Thai Binh peasants face up to 30 kinds of local "contributions" on top of national taxation. Other provinces share the same fate. According to Oxfam (1996), peasants in Ha Tinh Province pay up to 14 national taxes and local "contributions" including national defence and public security funds.

8. Moreover, these unfair contributions are often collected in a brutal and ruthless manner, leaving the peasants completely empty-handed. This is a "flagrant violation of democratic rights" states the inquiry report; "Indeed it is astonishing that peasants have endured such undemocratic treatment for so long".

9. In a section entitled: "Exploitation, extortion of the people's resources and rampant corruption", the report strongly criticizes endemic "lack of transparency and democracy" in the appropriation of tax revenues. For example, a sewerage pipe installed by the authorities in Quynh Hong village cost 21 million dongs (US$ 1,615), whereas a pipe installed by the peasants cost only 7.5 million dongs (US$ 577). Graft and extortion have enabled "prominent rural officials to grow extraordinarily rich over the past five years. (...) these cadres live in big houses with all modern comforts, ride brand new motorcycles, their wives and children are ostentatiously dressed. (...) The peasants were so exasperated by this blatant corruption that their anger finally overflowed".

10. Initially, according to the report, peasants expressed their grievances peacefully, sending thousands of petitions to local and central authorities as early as 1986. But their complaints were either ignored or classed as "negativist attempts to abuse the democratization process" led by "extremists slandering the Party and State". Throughout 1996, "all kinds of legitimate

protests were organized, ranging from signature collections, petitions, village delegations to central Government, etc. ...". In June 1998, Thai Binh Communist Party Secretary Pham Van Tho said that "people from 251 out of 285 communes in the province have lodged complaints and denouncements" over the past 16 months "and the situation in 30 communes is still tense".

11. Peasants were joined in these protests by many women, children, war veterans, former Party members, retired officials, war invalids and revolutionary heroes, illustrating a wide popular consensus. "This is a broad-based social movement (...), observed the report, "it cannot be dismissed as an internal conflict, still less as an anti-government revolt". Moreover, the protests "were all conducted in a peaceful and orderly manner", even large-scale demonstrations such as the 2,000-strong sit-in in Quynh Phu district on 11 May 1997: "The people sat in straight rows on the pavement, never once damaging trees, scattering litter or causing disorder. They stoically endured tension and fatigue for two days and one night just to hand in a petition to the Provincial [Party] Chairman". Ensuing demonstrations only escalated into violence after these peaceful initiatives had been rebuffed.

12. The explosion of unrest in Thai Binh - traditionally considered as the cradle of Communism and a model of rural development - is not an isolated case. In the Mekong Delta in 1988, hundreds of peasants demonstrated non-stop for three months to denounce State land-abuse and "red feudal landlords". This widespread rural discontent highlights the failure of Viet Nam's urban-focused liberalization policies and the resulting growth in the poverty gap. Indeed, in the countryside today where 80 per cent of Viet Nam's 77 million people live, 57 per cent of the population fall below the poverty line.

13. Economic liberalization policies have also seriously restricted poor people's access to basic social services such as health and education in Viet Nam. According to a World Bank report in 1997: "A nationwide system of official tuition fees for public schools was introduced in September 1989. Parents are also expected to pay contributions to parent-teacher associations and to bear the cost of textbooks, clothing and food". As a result, "only 19 per cent of the poorest children are enrolled in lower secondary schools" and "no youths aged 18-24 in the poorest quintile are enrolled in any kind of post-secondary education". As for health, the introduction of "user fees" in 1989 has had "a far-reaching effect, transforming the provision of health care into a largely private market. (...) This means that the poor face lower quality and higher prices for basic health care".

14. The FIDH and the Vietnam Committee on Human Rights are deeply concerned by these grave violations of economic and social rights, especially in view of Viet Nam's non-compliance with ICESCR reporting mechanisms. Since Viet Nam acceded to the ICESCR 16 years ago, it has submitted only one periodic report (1993) and its second report has been overdue since June 1995. The organizations call on Viet Nam to respect its binding obligations as a State party to the ICESCR and take concrete steps to respect the universal human rights of the people of Viet Nam.

UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/28
4 August 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Agenda item 2

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 July 1998]

1. The International Federation of Human Rights Leagues (FIDH) is extremely concerned about the persisting situation of flagrant, massive and systematic violations of human rights in Algeria. The spiral of violence has been continuing now for seven years and the Algerian State is not only proving incapable of dealing with the terrorism effectively but also bears responsibility for systematic violations and seems to be presenting violence by the State as its sole response to terrorist violence.

2. FIDH unreservedly condemns the massacres and other crimes attributable to Islamic groups and recognizes the right and duty of the Algerian authorities to prosecute and punish those responsible. The Algerian authorities must make every effort to secure respect for all the international norms concerning the protection of human rights to which their country has subscribed. Yet it has to be pointed out, as did the Human Rights Committee in July 1998, that they are a very long way from meeting that obligation. In July 1998, in connection with the consideration of Algeria's second periodic report to the Committee, FIDH issued an "alternative report" showing there to be a wide gap between the provisions of the International Covenant on Civil and Political Rights and the human rights situation in Algeria, notably insofar as the right to an effective remedy, the state of emergency, the right to life, torture, arbitrary detention, the rights of detainees, the right to a fair trial and the right of peaceful assembly are concerned.

Violations of the right to life

3. Since the beginning of the conflict and the interruption of the electoral process in December 1991, the right most systematically and regularly violated in Algeria is evidently the right to life. These violations are perpetrated by terrorist groups, but also by the Algerian authorities.

4. Several forces are engaged in the anti-terrorist struggle. There are, firstly, various security bodies: police forces under the authority of the General Directorate of National Security, the National Gendarmerie, People's Army and Republican Guard and "military security" units that participate actively in operations against the armed groups. In addition, since 22 September 1993, a decree has established the communal guards to participate in missions for the maintenance or restoration of law and order. Moreover, some civilian "self-defence" groups have also been taking part in this struggle since 1993. Until January 1997, these militias were acting completely outside the parameters of the law. Since then, a law on the self-defence groups (or "patriots") has provided the framework for and in theory organizes their activities. Working from the official figure of 5,000 militia groups and the probably low assumption that there are 20 persons per group, the militias may now be calculated to have 100,000 members, recruited mainly from among the former mujahidin (i.e. former fighters in the war of national liberation), their families and friends, as well as relatives of victims of the terrorism whose desire for revenge or vengeance is very strong. These militias are not content with playing a defensive role: they also participate actively in "clean-up" and other military operations.

5. There are hundreds of first-hand reports that these forces have generally been involved in the execution of persons suspected of belonging to or supporting the armed groups. The development of action by the armed groups and the reinforcement of the regular security forces and militias have affected increasingly broad segments of Algerian society. The civilian population has thus gradually been taken hostage by the various actors in the conflict. To our knowledge, no judicial inquiry has yet been conducted and there have been no court convictions directly related to the massacres.

6. Meanwhile, Algeria still refuses to allow the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit the country.

7. For its part, the Human Rights Committee, in its concluding observations of 31 July on Algeria, notes the lack of preventive measures for the protection of the population by the police and the army, as well as numerous allegations of collusion of members of the security forces in terrorist attacks. With regard to the self-defence groups, the Committee questioned the legitimacy of such a transfer of power by the State to private groups and emphasized the risk to human life and security entailed by the exercise of that power.

Systematic practice of torture

8. During its last mission to Algeria in May 1997, FIDH - which is no longer allowed to visit Algeria - received confirmation from its various interlocutors, including lawyers acting for detainees, that proven or suspected members of Islamic movements or terrorist groups had been systematically tortured and ill-treated after their arbitrary arrest in secret places of detention or while being held in custody by the police or gendarmerie. These acts of torture, which are also practised against minors, include beatings, floggings, electric shock treatment on all parts of the body including the genitals, suffocation using a rag soaked with water and chemicals, threats of rape or even sodomy by agents of the security forces or with bottles, and cigarette burns.

9. The Human Rights Committee deplores the apparent "routine" acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture.

10. For its part, the Government denies that torture is practised in Algeria and refuses to invite the Special Rapporteur on the question of torture.

Arbitrary arrests and enforced disappearances

11. Although the authorities deny the extensiveness of the phenomenon of disappearances, FIDH estimates that there are now at least 2,000 cases of disappearances attributable to the security forces. The responsibility of these forces can be established in various ways and especially because some family members, neighbours or fellow workers were present when the missing person was abducted and therefore saw the kidnappers. Such responsibility may also be confirmed because, before their disappearance, the persons abducted

often passed through police or gendarmerie stations or communal guard posts and were seen there by witnesses who have since been released. All the security forces, whether regular or not, participate in the arrests. The first-hand accounts gathered often speak of the involvement of the "patriots" and the communal guards.

12. Following its mission to Algeria in 1997, FIDH was able to publish a list of 13 illegal long-term detention centres for Algiers and its environs and 4 such centres in other departments. The accounts received since confirm virtually all of this information, in particular for Algiers, and add other locations to the list.

13. It is always in vain that the families of disappeared persons write to the authorities or go to a lawyer's office, the courts and even the cemeteries in search of their next of kin, some of whom disappeared several years ago.

State control over the justice system

14. Executive decree 05/92 of 24 October 1992, which revised the law on the status of the judiciary of 12 December 1989, limited the independence of judges by changing the composition and powers of the Supreme Council of the Magistrature (CSM). A judge is thus obliged under this decree to accept a promotion, even if it means a transfer. Likewise secondments, which used to depend on the CSM, are now handled solely by the Ministry of Justice. FIDH has just learnt that the Algerian Government has put before the National People's Assembly a new bill on the status of the judiciary which should, once adopted, replace the above-mentioned decree. The National Association of Magistrates has sent the Algerian parliamentarians a very long memorandum outlining their concerns about this bill. If passed in its present form, the bill would confirm the Ministry's control over the judiciary, whose independence has already been seriously undermined by the 1992 decree.

Violations of the freedoms of opinion, expression and association

15. Freedom of the press is heavily compromised by censorship, which is applied in two main ways. First, an interministerial directive addressed to newspaper editors in June 1994 and still in force announced the establishment of the security cell as the only body empowered to issue authorized information relating to security issues. Then, at the last session of the Human Rights Committee, after having continually denied the existence of the reading committees placed at the country's three publishing plants, the Government abruptly announced their dissolution. FIDH has received no proof of this claim.

16. Associations, for their part, regularly find that their activities, although peaceful, are prohibited. For example, the Rassemblement Action Jeunesse (RAJ) association, one of the most dynamic, had more than 20 of its meetings, concerts and other events prohibited in 1994 and 1997. The official notice of a ban usually gives no explanation or legal grounds.

17. FIDH calls on the Sub-Commission to respond immediately to the gravity of the human rights situation in Algeria and:

(a) To condemn most firmly the flagrant, massive and systematic violations of human rights perpetrated in Algeria;

(b) To urge the Government not to meet terrorist violence with violence by the State;

(c) To request the Commission on Human Rights, at its fifty-fifth session, to appoint a Special Rapporteur on the human rights situation in Algeria.

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UNITED
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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/NGO/29
4 August 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 2 of the agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDANT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 July 1998]

GE.98-13519 (E)

1. The International Federation of Human Rights Leagues (IFHR) and its affiliate, the Tunisian Human Rights League (LTDH), express their concern at the continued deterioration in the human rights situation in Tunisia. They appeal to the Sub-Commission to react with firmness by adopting a resolution condemning the human rights violations in Tunisia and calling upon the Commission to include Tunisia in its agenda.

2. The human rights violations are of many kinds: arbitrary arrests, excessive periods in custody (the dates of arrest are falsified so that custody does not exceed the 10 days theoretically authorized by law), torture and cruel, inhuman and degrading treatment, violations of the right to a fair trial, violations of the rights of detainees. Freedom of opinion and expression is flouted on a daily basis. The national press is muzzled, and the foreign press is censored when it writes about Tunisia. Le Monde, for example, is distributed three days after its publication date. Abroad, anonymous and pro-government publications, notably Les Masques, continue to pour out poisonous lies and make attacks which are full of hatred for certain Tunisian citizens selected as targets.

3. In this general context of repeated attacks on fundamental freedoms, human rights defenders are the first victims: they are harassed, prosecuted, sentenced for their convictions and prevented from carrying out their mission to protect and promote human rights in Tunisia and to inform the international community of the situation.

Trials, charges, tortures, deaths in detention

4. Khemais Ksila, Vice-President of the LTDH, was sentenced to three years' imprisonment on 11 February 1998 for a "crime of opinion". On 25 April the Court of Appeal in Tunis confirmed the sentence, giving as a reason the mere announcement, in September 1997, of a hunger strike to denounce the harassment to which Mr. Ksila and his associates were being subjected by virtue of his commitment on behalf of human rights. An appeal was rejected on 28 May 1998. The nine reports of legal observations conducted on the initiative of six international NGOs, including the IFHR, have all been in agreement that there was a violation of the right to a fair trial.

5. Radhia Nasraoui, a lawyer and human rights defender, was summoned to appear before the dean of examining magistrates on 30 March 1998 when she had returned from a mission to Mali on behalf of Amnesty International. The magistrate read out 11 charges, including "belonging to a band of criminals", "links with a terrorist organization", and an "illegal meeting" - accusations which were identical to those made against 15 detainees whom Maître Nasraoui was defending. She therefore risks being sentenced to more than 20 years in prison. She has been allowed to remain at liberty, but has been notified that she is banned from leaving Tunisian territory and moving outside the Tunis district, which amounts to preventing her practising. It should be recalled that Maître Nasraoui, a member of the Council of the Ordre National des Avocats, had specialized in defending human rights. Her office had been "visited" on a number of occasions during the year by persons unknown, and ransacked last February. Along with her young children, she has been continually harassed, and it has become very difficult for her to work. In addition, her husband, Hamma Hammami, a leader of the Communist Party of

Workers of Tunisia (PCOT, a party which is banned in Tunisia), is being sought by the police. Maître Nasraoui has just been comfortably re-elected - on 14 June 1998 - by her colleagues in elections to the Council of the Ordre National des Avocats.

6. Mohamed Moadda, President of the Movement of Socialist Democrats (MDS), was conditionally released on 30 December 1996 after serving part of a prison sentence which had been passed on him after a trial for his beliefs. He got his passport back in November 1997, and travelled to Europe, where he met European members of parliament and organizations working to defend human rights. After that trip he was questioned on a number of occasions and then summoned by the examining magistrate in December 1997 in the context of a judicial investigation into "a network linked to fundamentalist terrorism" with which Mr. Moadda had allegedly had contacts. On 21 May 1998 the investigation continued. Mr. Moadda was requested to remain at the disposal of the law. He was forbidden to move outside the Tunis district. He could not receive any visits at his home, his telephone line was cut and his bank account (into which is paid his monthly pension from his unilaterally enforced early retirement as a university professor) was made the subject of an attachment of debt measure under the pretext of reimbursement of the fine imposed on him in 1996.

7. Eighteen people, including 15 students, were arrested and charged in an affair concerning members of the PCOT. Among them was Najib Baccouchi, who had already been in prison for three years and tortured. He was released in 1997, and arrested again on 2 March 1998 and tortured violently.

8. Several sentences handed down recently provide evidence of systematic and merciless repression of people who, by reason of family or emotional ties with known or supposed "Islamists", are harassed and sometimes prosecuted crudely for "criminal association" or for the alleged provision of financial aid. Dozens of women are threatened, maltreated and interrogated on a daily basis about their contacts with their exiled spouses or parents, and are subjected to intolerable pressure to divorce. On 26 May 1998, Radhia Aouididi and Samia Ben Karmi were sentenced to three and a half years' imprisonment. Radhia Aouididi had been arrested on 9 November 1996, when in desperation she had made use of false documents in an attempt to join her fiancé, who is a refugee in France and a sympathizer of "Ennadha" (a Tunisian Islamist movement). Samia Ben Karmi was charged in connection with the help she had given her friend. One cannot help but be surprised at the disproportionate nature of the sentence compared with the crime that had been committed, and when it involved two young women with no previous records.

9. Rashida Ben Salem, arrested in Tunisia in May 1997, was sentenced in November 1997 to two years and nine months' imprisonment. She was charged with having attempted to join her husband, who was a refugee in the Netherlands, accompanied by their two children.

10. There is also the case of Dr. Moncef Marzouki, a former President of the LTDH. He was deprived of the opportunity to practise his profession, and had his passport and telephone taken away; he was subject to constant harassment. His brother, Mohamed Ali Bedoui, was wrongly sentenced to a second term of six months' imprisonment on 5 February 1998.

11. All human rights defenders are currently under attack in Tunisia. The LTDH has been rendered incapable of fulfilling its mission: Taoufik Bouderbala, its President, is under constant pressure. In February 1998, in an unprecedented move, he was summoned by the State Prosecutor to "explain himself" regarding public statements by the LTDH expressing its total solidarity with its imprisoned Vice-President, Khemais Ksila. LTDH communiqués are not used by the press, and consequently public opinion is not informed. This immediately raises the question of what possibilities a legally recognized organization has to pursue its activities when it cannot fulfil its mission to inform and protect. Harassment of members of the management committee and officials of various sections of the LTDH is increasing in frequency and intensity. It even affects people's private lives, and takes the form of aggression, telephone tapping, dismissals and illegal "searches"; people are frequently followed and there is constant and systematic surveillance of the League's headquarters. A number of the League's activities concerning human rights education have been interfered with, and frequently banned. The Ministry of the Interior remains silent when it receives correspondence, representations and telephone calls from the LTDH management committee regarding the numerous cases of grievances on the part of citizens. Ostracizing the LTDH takes the form, among other things, of not inviting it to official events concerning associations (the National Day of Associations) or human rights (commemoration of the Universal Declaration of Human Rights).

12. One cannot but deplore the increasing number of cases of deaths in often suspicious circumstances while in detention (Ridha Khemiri in July 1997; Ahmed Ouafi in September 1997; Mabrouk Zran in May 1997, etc.). Requests for investigations into the circumstances of these deaths remain unanswered.

Tougher laws and violations of international norms

13. An amendment to the article in the Penal Code concerning attacks on the external security of the State was tabled and adopted in the Council of Ministers in September 1997. The amendment is to the effect that any contact with representatives of foreign or international organizations or the international press shall be considered as an attack on the external security of the State, which is a crime punishable by 12 years' imprisonment. The amendment awaits ratification by Parliament, and it seems that the authorities have slowed down the ratification process in response to national and international pressure. Since November 1993, article 307 bis of the amended Code of Criminal Procedure has permitted the prosecution of Tunisians for participation in meetings abroad, disseminating pamphlets of associations which have not been recognized or for any other act even if these acts do not constitute crimes in the jurisdiction of the country where they are alleged to have occurred.

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